

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

**STIPULATION AND ORDER SHORTENING CONFIDENTIALITY PERIOD
FOR CERTAIN DEPOSITION TRANSCRIPTS RELATED TO THE PROFIT
WITHDRAWAL ISSUE**

Irving H. Picard, trustee (“Trustee”) for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the chapter 7 estate of Bernard L. Madoff (“Madoff”) (collectively, “Debtor”), by and through his counsel, and Participating Claimants, as that term is defined in paragraph 5 of the Order Establishing Schedule For Limited Discovery and Briefing on Profit Withdrawal Issue dated June 25, 2015, ECF No. 10266, as amended by the Order Amending Schedule of Litigation of Profit Withdrawal Issue entered on April 5, 2016, ECF No. 13038, and the Stipulation and Order on Schedule for Litigation of and Evidentiary Hearing on Profit Withdrawal Issue entered on July 12, 2016, ECF No. 13619, and the Picower Parties, as that term is defined in footnote 1 to the Order Setting Certain Limitations On Depositions Taken On The Profit Withdrawal Issue, ECF

No. 13358, by and through their undersigned counsel, and subject to the approval of the Court, hereby stipulate and agree to the following:

On April 8, 2016, the Court entered the Order Authorizing the Deposition of Bernard L. Madoff with Certain Limitations, ECF No. 13060 (“Madoff Deposition Order”). On May 6, 2016, the Court entered an Order Authorizing the Deposition of Federal Prisoner Annette Bongiorno with Certain Limitations, ECF No. 13240 (“Bongiorno Deposition Order”). Thereafter, upon Motion of the Picower Parties, the Court entered the Order Setting Certain Limitations on Depositions Taken on the Profit Withdrawal Issue on May 18, 2016, ECF No. 13358 (“Employee Deposition Order”). On June 28, 2016, the Court entered a second order authorizing the deposition of Annette Bongiorno that incorporated the terms of the prior Bongiorno Deposition Order, ECF No. 13556 (collectively, the “Deposition Orders”).¹

The Deposition Orders limited the scope of the questioning during the respective depositions to topics related solely to the Profit Withdrawal Issue; restricted the parties from posing any questions relating to the Picower Parties and the witnesses from providing testimony relating to the Picower Parties; limited the use of the deposition transcripts to the Profit Withdrawal Issue litigation only; established a procedure for requesting redactions of the transcripts under seal; and provided for a period of confidentiality. Specifically, the transcripts of the depositions of Mr. Madoff, Ms. Bongiorno, and any former BLMIS employees taken in connection with the profit withdrawal proceeding “shall remain confidential and under seal for the longer of 60 days or the day after a final, non-appealable order is entered concerning alleged or actual violations of this Order (the “Confidentiality Period”).”²

¹ The Madoff Deposition Order did not permit the Securities Investor Protection Corporation (“SIPC”) to view the Madoff deposition transcript. The remaining Deposition Orders did not have such a limitation.

² Madoff Deposition Order ¶ 8; Bongiorno Deposition Order ¶ 9; Employee Deposition Order ¶ 8.

Pursuant to the Deposition Orders:

1. The Trustee deposed six individuals, resulting in eight deposition transcripts.³ Helen Davis Chaitman, on behalf of certain Participating Claimants, deposed Bernard L. Madoff.
2. On May 18, 2016 and June 13, 2016, counsel for the Trustee deposed Ms. Joann Sala in the presence of counsel for the Participating Claimants.
3. On May 23, 2016, counsel for the Trustee deposed Ms. Winifer Jackson in the presence of counsel for the Participating Claimants.
4. On May 25, 2016, counsel for the Trustee deposed Ms. Dorothy Khan in the presence of counsel for the Participating Claimants.
5. On June 2, 2016, counsel for the Trustee deposed Ms. Alethea Leung in the presence of counsel for the Participating Claimants.
6. On June 6, 2016, counsel for the Trustee attempted to depose Ms. Annette Bongiorno in the presence of her counsel and counsel for the Participating Claimants but Ms. Bongiorno asserted her Fifth Amendment right against self-incrimination and refused to answer any questions. Ms. Bongiorno was deposed a second time on July 8, 2016 by counsel for the Trustee and in the presence of her counsel and counsel for the Participating Claimants.
7. On June 15, 2016, counsel for the Participating Claimants deposed Mr. Bernard L. Madoff in the presence of counsel for the Trustee.
8. The Confidentiality Period for each Profit Withdrawal deposition has or will expire on the date set forth in Table 1.

³ Ms. JoAnn Sala's testimony was taken on two separate dates at the request of Helen Chaitman, counsel for certain Participating Claimants. Ms. Bongiorno's testimony was also taken on two separate dates.

Table 1

Deponent	Date of Deposition	Expiration of Confidentiality Period
JoAnn Sala (Day 1)	May 18, 2016	July 18, 2016
Winifred Jackson	May 23, 2016	July 22, 2016
Dorothy Khan	May 25, 2016	July 25, 2016
Alethea Leung	June 2, 2016	August 2, 2016
Annette Bongiorno (Day 1)	June 6, 2016	August 6, 2016
JoAnn Sala (Day 2)	June 13, 2016	August 12, 2016
Bernard L. Madoff	June 15, 2016	August 15, 2016
Annette Bongiorno (Day 2)	July 8, 2016	September 8, 2016

9. Pursuant to the Stipulation and Order on Schedule for Litigation of an Evidentiary Hearing on Profit Withdrawal Issue, ECF No. 13619, entered on July 12, 2016, the Trustee and SIPC's supplemental briefs in support of the Trustee's Motion must be submitted by August 12, 2016.

10. As of August 12, 2016, the Confidentiality Period will have ended for the Sala, Jackson, Khan, Leung, and Bongiorno Day 1 deposition transcripts. No redaction requests have been filed with the Court related to any of those deposition transcripts.

11. As of August 12, 2016, the Confidentiality Period will not have ended for the Madoff and Bongiorno Day 2 deposition transcripts. None of the undersigned parties intends to file a redaction request related to either of those deposition transcripts.

12. To allow the Trustee and SIPC to rely upon all available evidence in their Supplemental Briefs, the Confidentiality Period for the Madoff and Bongiorno Day 2 depositions will expire upon entry of this Order and Stipulation.

13. Other than the provision related to the Confidentiality Period addressed in paragraph 12 hereof, the remaining terms of the Deposition Orders shall remain in full force and effect, and the undersigned parties reserve their respective rights under the Deposition Orders.

The above-referenced deposition transcripts may not be used for any purpose other than resolving pending litigation concerning the profit withdrawal issue.

14. This Court shall retain exclusive jurisdiction over the enforcement, implementation, and interpretation of this Order.

/s/ Seanna R. Brown
BAKER & HOSTETLER LLP
45 Rockefeller Plaza
New York, NY 10111
(212) 589-4200
(212) 589-4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Seanna R. Brown
Email: sbrown@bakerlaw.com
Amy E. Vanderwal
Email: avanderwal@bakerlaw.com

*Attorneys for Irving H. Picard, as Trustee
for the Substantively Consolidated SIPA
Estate of Bernard L. Madoff Investment
Securities LLC and Bernard L. Madoff*

/s/ Richard Kirby
BAKER & MCKENZIE LLP
815 Connecticut Avenue, NW
Washington, DC 20006
Richard Kirby
Email: richard.kirby@bakermckenzie.com

Attorney for Drs. Joel and Norman Blum

/s/ Helen Davis Chaitman
CHAITMAN LLP
465 Park Avenue
New York, NY 10022
Helen Davis Chaitman
Email: hchaitman@chaitmanllp.com

*Attorney for Aaron Blecker and Adele
Fox*

/s/ Marcy Ressler Harris
SCHULTE ROTH & ZABEL LLP
William D. Zabel
Marcy Ressler Harris
Michael Kwon
Jennifer M. Opheim
Mark D. Richardson
919 Third Avenue
New York, New York 10022
(212) 756-2000

Attorneys for the Picower Parties

SO ORDERED.

Dated: August 2nd, 2016
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE